

Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC

In the Matter of

Distribution of the
2014-17 Satellite Funds

)
)
) Docket No. 16-CRB-0010-SD (2014-17)
)
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)

JOINT REPLY IN SUPPORT OF MOTION TO LIFT STAY

The undersigned representatives of the Allocation Phase claimant categories to which Section 119 satellite royalties have been allocated in prior satellite distribution proceedings (“Allocation Phase Parties”) hereby submit this Joint Reply in support of their Joint Notice of Settlement and Motion to Lift Stay (“Motion”). As explained in the Motion, the Allocation Phase Parties have reached a confidential settlement of all Allocation Phase issues related to the 2014 and 2015 satellite royalty funds (“2014-15 Satellite Funds”), and seek to have the Copyright Royalty Judges (“Judges”) lift their stay of the instant proceeding as to the 2014-15 Satellite Funds so that parties may move for final distribution of royalties that are not in controversy within their respective program categories pursuant to 17 U.S.C. § 801(b)(3)(A).

Multigroup Claimants (“MC”) is the only party who submitted an opposition to the Motion (“Opposition”).¹ Although MC fails to acknowledge it at any point in the Opposition, MC lacks standing to object to the Motion as to the 2014 Satellite Fund, as MC did not file, and does not assert authority to represent, *any* 2014 satellite royalty claims. Indeed, MC acknowledged that it lacked any interest in the 2014 Satellite Funds in its petitions to participate filed in this proceeding and *expressly* limited its claims to the 2015-17 satellite royalty funds. *See*

¹ MC points out that Global Music Rights, LLC, Major League Soccer, LLC, and Circle God Networks LLC dba David Powell were not parties to the Motion. However, none of these parties filed an opposition to the Motion. In addition, Global Music Rights, LLC did not file 2014 or 2015 satellite royalty claims, and thus would not have had standing to file an opposition to the Motion as to the 2014-15 Satellite Funds.

Multigroup Claimants' Petition To Participate In Distribution Proceedings at 1 and Exhibit A (March 11, 2019); *see also* Multigroup Claimants' Second Motion To Amend Petition To Participate In Distribution Proceedings at Exhibit 1 (August 14, 2019). Accordingly, the Judges should disregard MC's Opposition insofar as it opposes the Motion with respect to the 2014 Satellite Fund. Further, because no party with an interest in the 2014 Satellite Fund filed a timely objection to the Motion, the Judges should consider the Motion unopposed as to that royalty year.

MC's Opposition, which is necessarily limited to the 2015 Satellite Fund, lacks merit. MC opposes the Allocation Phase Parties' request that the stay be lifted only because the Notice of Inquiry proceeding in Docket No. 19-CRB-0014-RM is still pending. Opposition at 2. However, this reasoning does not constitute a substantive objection to the Motion, which seeks to have the stay of this proceeding lifted so that motions for final distribution of royalties no longer in controversy can be filed and considered by the Judges, as contemplated by 17 U.S.C. § 801(b)(3)(A). MC's participation in a Notice of Inquiry proceeding, which has no determinable potential effect on MC's claims, cannot reasonably be relied upon to protract distribution of royalties. MC has failed to explain how its interests as a Distribution Phase participant would be adversely affected if the Motion is granted and the stay is lifted.²

Moreover, MC's Opposition fails to address the precedent and policy considerations that support lifting the stay in this proceeding, as the Allocation Phase Parties have requested. The Judges' past decisions support the prompt distribution of royalties that are no longer in controversy following a settlement. *See, e.g.*, Order Granting JSC And CTV Motion For Final Distribution Of 2010-13 Satellite Royalties, Docket Nos. 14-CRB-0010-CD/SD (2010-13) and 14-CRB-0011-SD (2010-13) (Feb. 24, 2020); Order Granting Settling Devotional Claimants'

² MC admits that it is not an Allocation Phase category representative in this proceeding. Opposition at 2. Indeed, MC has never participated in any royalty distribution proceeding as an Allocation Phase category representative, and has instead only asserted its claims (if any) in the Distribution Phase.

Motion for Final Distribution of 2010-13 Satellite Royalty Funds, Docket Nos. 14-CRB-0010-CD/SD (2010-13) and 14-CRB-0011-SD (2010-13) (Jan. 13, 2020); Order Granting MPA's Motion for Final Distribution of 2010-13 Satellite Royalty Funds, Docket Nos. 14-CRB-0010-CD/SD (2010-13) and 14-CRB-0011-SD (2010-13) (Jan. 13, 2020); Order on Motions for Distribution, Docket Nos. 2007-3 CRB CD 2004-2005, 2008-4 CRB CD 2006, 2009-6 CRB CD 2007, 2010-6 CRB CD 2008, 2011-7 CRB CD 2009, 2010-2 CRB SD 2004-2007, 2010-7 CRB SD 2008, 2011-8 CRB SD 2009 (Feb. 17, 2012); Distribution Order, Docket Nos. 2008-5 CRB SD 1999-2000 and 2005-2 CRB SD 2001-2003 (Dec. 8, 2008). Indeed, the D.C. Circuit has acknowledged that the parties to cable royalty distribution proceedings can settle their claims and receive distribution of any portion of the royalties that are not in controversy, even when one participant objects to the settlement:

As we previously observed, the Copyright Act anticipates that parties may settle their claims, and that they can receive any part of the fund not in controversy....We would effectively eliminate the likelihood for settlements if we accepted the Devotionals' contention that when one claimant—no matter how modest that claimant's likely share under even the most sanguine view—chooses not to settle with the other claimants, all awards would thereby be in controversy and a full hearing on all claims would be required. Past history suggests that at least one claimant will in any given proceeding feel sufficiently aggrieved to upset the settlement apple cart.

Nat'l Ass'n of Broadcasters v. Copyright Royalty Tribunal, 772 F.2d 922, 939 (D.C. Cir. 1985) (internal citation omitted).³

These considerations are especially important now, when rightsholders face substantial economic uncertainty due to the ongoing COVID-19 pandemic and resulting economic shutdowns through the country. During these challenging times, the prompt distribution of all royalties not

³ In the 1982 royalty proceeding at issue there, of course, the Devotional Claimants, unlike MC here, were an Allocation Phase category representative.

in controversy is even more important to rightsholders who have already waited more than five years to receive these funds.

Accordingly, the Allocation Phase Parties urge the Judges to reject MC's Opposition, grant their Motion, and lift the stay of this proceeding as to the 2014-15 Satellite Funds.

Respectfully submitted,

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Dated: June 2, 2020

CERTIFICATE OF SERVICE

I certify that on June 2, 2020, I caused a copy of the foregoing to be served on all parties registered to receive notice by eCRB by filing through the eCRB filing system.

/s/ *Lucy Holmes Plovnick*

Lucy Holmes Plovnick

Proof of Delivery

I hereby certify that on Tuesday, June 02, 2020, I provided a true and correct copy of the Joint Reply In Support Of Motion To Lift Stay to the following:

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